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## Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we praise You that it is Your nature to go beyond what You've done before. Whatever we've experienced of Your grace and glory as individuals and as a nation, it is small in comparison to the revelation You have prepared for us. There's always an element of surprise in our relationship with You. You give us fresh knowledge when we foolishly think we know it all. What we have learned is only a fraction of what You have stored up for us.

As we look ahead to the challenges and decisions facing us today, You remind us of how in the past You met us at every fork of the road with clear guidance and fresh grace. We beheld Your glory. Now we hear You saying that what we have discovered before is minuscule in comparison to the mighty acts You will do. Excitement and expectation fill our hearts. Dear God, continue to bless America.

Fill our minds with vision and our hearts with hope so that we can believe that all things are possible with You. There's no limit to what You can and will do to manifest Your glory. Thank You for the difference thinking positively about Your power has made for our attitude to this new day. Through our Lord and Savior. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. GRAMS. Thank you, Mr. President.

### SCHEDULE

Mr. GRAMS. Mr. President, on behalf of the majority leader, I announce that

today the Senate will proceed to executive session to consider the nomination of Federico Peña to be Secretary of Energy. Following debate, the nomination will be temporarily set aside and by previous order, at 12:30 p.m., a rollcall vote will occur on the nomination. Also by previous order, following debate on the Peña nomination, the Senate will be in a period of morning business until the hour of 12:30 p.m. After the 12:30 p.m. vote, the Senate will begin consideration of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment on campaign financing. The majority leader has announced that Senators can expect additional rollcall votes throughout the day's session.

I thank my colleagues.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. BENNETT). Under the previous order, the leadership time is reserved.

### EXECUTIVE SESSION

#### NOMINATION OF FEDERICO PEÑA, OF COLORADO, TO BE SECRETARY OF ENERGY

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the nomination of Federico Peña to be Secretary of Energy, which the clerk will report.

The assistant legislative clerk read the nomination of Federico Peña, of Colorado, to be Secretary of Energy.

The PRESIDING OFFICER. There will now be 30 minutes under the control of the Senator from Minnesota, [Mr. GRAMS].

Mr. GRAMS. Mr. President, before I begin my statement dealing with the nomination today, I yield 3 minutes to my colleague from Colorado, Senator CAMPBELL.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Senator from Minnesota. I appreciate being able to speak on behalf of Mr. Peña for a couple of minutes.

I have known Federico Peña personally and professionally for over 15 years, Mr. President. I know him first as a friend and I know him as a professional with the highest integrity. He was that kind of a legislator when he was the minority leader of our State legislature. He was that kind of a mayor, as the mayor of our largest city of Denver. He was that kind of person when he was Secretary of the Department of Transportation.

His résumé reflects an unsurpassed commitment and dedication to public service. His achievements display remarkable leadership, vision, and hard work.

Mr. Peña leaves an indelible mark on every project he undertakes. The now famous Denver International Airport was a product of his foresight and leadership. The Department of Transportation, where he served as a Secretary for 4 years, is now leaner and more effective than it once was—success in taming and trimming a vast bureaucracy that can only be accomplished with discipline, determination, and hard work that Federico Peña was willing to put in.

Despite the many professional attributes Mr. Peña has, and the many dimensions of professionalism he brings to public service, perhaps none are so important in our work as his honesty and integrity. This is a quality the Federal Government cannot afford to turn down.

Having known him for the many years that I have, I am convinced that Federico Peña will bring to the Department of Energy the same integrity, honesty, and leadership for which he is known. That is his indelible mark that he has left on our State and our U.S. Government.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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I simply urge my colleagues to support the nomination when it comes up this afternoon, and I thank the Senator for yielding these couple of minutes. I yield back the balance of my time.

Mr. GRAMS. Mr. President, I take a few minutes this morning to talk about today's pending nomination, and also some of the problems that are surrounding one of our most important issues, and that is the storage of this country's nuclear waste.

Mr. President, as the full Senate takes up the nomination of Federico Peña to become the next Secretary of Energy, I rise today to discuss an issue of critical importance that has become necessarily linked to the Peña nomination again, that is our Nation's nuclear waste storage problem.

I say the two are linked because it has been the failure of the very agency Mr. Peña has been appointed to lead—the U.S. Department of Energy—to carry out its legal obligations that has led to the nearly critical situation in which we currently find ourselves. It is this very failure on the part of the DOE which threatens utility ratepayers today and taxpayers in the future.

For the Senate to fully appreciate the gravity of the situation, I believe that a brief summary of the history of this problem is in order.

Since 1982, utility ratepayers have been required to pay the Federal Government nearly \$13 billion of their hard-earned dollars in exchange for the promise that the Department of Energy would transport and store commercially generated nuclear waste in a centralized facility by January 31, 1998.

However, with this deadline less than a year away and with over \$6 billion spent by the Department of Energy, there has been very little progress to date toward keeping this 15-year-old promise of establishing a centralized Federal storage facility.

In fact, though there has been measurable progress at the Yucca Mountain, NV facility, a permanent repository will not be completed until well into the next century. Mr. President, the 80 nuclear wastesites on this chart graphically illustrate the extent of this growing problem.

Clearly, if the DOE is to meet the January 31, 1998 deadline, it must begin accepting nuclear waste at an interim storage facility, yet, that has not happened. In fact, the DOE recently notified States and utilities that it would not accept their commercial nuclear waste despite the law and the Federal court's effort to enforce it. Worse yet, even in the face of significant taxpayer liability for such irresponsible behavior by the Federal Government, the DOE has failed to offer a single constructive proposal to even begin the process of fulfilling its responsibility to the American people.

Despite those facts, utility ratepayers are still being required to pay for a mismanaged program. In fact, over \$630 million from the ratepayers go into the nuclear waste fund each

year—without any tangible benefits or results to show for them.

Our Nation's utility consumers and their pocketbooks aren't just hit once, either. Because of the DOE's failure to act, ratepayers are currently being forced to pay their hard-earned dollars to store waste onsite at commercial utility plants—a burden that would not be necessary had the Energy Department lived up to its legal obligations.

Take, for example, the situation facing ratepayers in my home State of Minnesota. Since 1982, Minnesota's nuclear energy consumers have paid over \$250 million into the nuclear waste fund believing that the Federal Government would fulfill its obligation to transport nuclear waste out of the State of Minnesota. But as time went on and the DOE continued to ignore their responsibilities, utilities in Minnesota and around the country were forced to temporarily store their waste within the confines of their own facilities. When it became clear to many utilities that storage space was running out and the Department of Energy would not accept waste by the established deadline, then the utilities had to go to their States to ask for additional onsite storage or else be forced to shut down those operations.

For example, ratepayers in Minnesota, North Dakota, South Dakota, and Wisconsin were forced to pay for onsite storage in cooling pools at Prairie Island in southeastern Minnesota. In 1994, with storage space running out, the Minnesota Legislature—after a bruising battle—voted to allow for limited onsite dry cask storage until the year 2002.

Mr. President, the cost associated with this onsite storage is simply staggering—ratepayers in our service area alone have paid over \$50 million for these costs and are estimated to pay another \$111 million by the year 2015, in addition to the required payments to the Federal Government, the nuclear storage fund.

To make matters worse, storage space will run out at Prairie Island in 2002, forcing the plant to close unless the State legislature once again makes up for the DOE's inaction. This will threaten over 30 percent of Minnesota's overall energy resources and will likely lead to even higher costs for Minnesota's ratepayers. In fact, the Minnesota Department of Public Service estimates that the increase in costs could reach as high as 17 percent, forcing ratepayers to eventually pay three times: Once to the nuclear waste fund, again up to \$100 million for onsite storage and yet again for increased energy costs.

And Minnesota is not alone in facing this unacceptable situation. Thirty six other States across the Nation will be facing similar circumstances of either shutting down their energy-generating capacity or continuing to bail out the Federal Government and its failure to act.

Ratepayers are not the only ones who face serious consequences because of

inaction by the DOE; taxpayers are threatened as well.

Last year, the Federal courts ruled that the DOE will be liable for damages if it does not accept commercial nuclear waste by January 31, 1998. Under current law, these damages will not be paid for by anyone at the DOE, it will go to the American taxpayers—at an estimated cost of somewhere between \$40 and \$80 billion. Such a tremendous liability burden on taxpayers would make the public bailout of the savings and loan collapse seem small in comparison.

What's worse is that while our States, utility ratepayers, and taxpayers are being unfairly punished by the Department of Energy's inaction, the Federal Government has been active in meeting the interim nuclear waste storage needs of foreign countries.

Under the Atoms for Peace Program, the DOE's has resumed collecting nuclear spent fuel from a total of 41 countries. In fact, since last September, the DOE Savannah River facility had already received foreign spent fuel from Chile, Columbia, Germany, Switzerland, Sweden, and Canada.

Ultimately, as I learned during a recent trip to the Savannah River site, up to 890 foreign research reactor cores will be accepted by the DOE over a 13 year period.

In addition, our Government is actively helping other countries reduce their nuclear waste stockpiles. With the Department of Defense spending up to \$400 million on designing and constructing an interim nuclear waste storage facility in Russia to help dismantle the cold war threat, the world will certainly be a safer place.

Now, Mr. President, as a Senator who is concerned about our national security needs, I understand the rationale behind reducing our international nuclear dangers.

But, what I, and many others cannot comprehend is how our Government has made it a priority to help foreign countries with their nuclear waste problems while simultaneously ignoring the concerns right here in our own country; not only that, but denying it has the responsibility and is going to court to stop it.

It seems clear to me that while States, utilities, and ratepayers have kept their end of the bargain, the DOE has not done its part. And that sends the wrong message to the American people about trusting the promises of the Federal Government.

Maybe that's why the National Association of Regulatory Utility Commissioners, 46 State agencies and 36 utilities have joined forces in a lawsuit to stop ratepayers' payments into the nuclear waste fund and to escrow \$600 million that will soon go into the fund.

For too long, our States, utilities, and ratepayers have acted in good faith, relying upon the Federal Government to live up to its obligations. Evidently, they have had enough of the

DOE's excuses for inaction and have proposed their own recourse.

This issue has created strange bedfellows as well. In a recent interview, former DOE Secretary Hazel O'Leary agreed that action on interim site is needed as soon as possible.

It's unfortunate that Secretary O'Leary waited until she was free from the administration to openly support interim storage, but I think her comments point not only to the need to resolve the interim storage impasse but also the political nature of this issue—again, I say the political nature of this issue. It is not science or technology, it's politics. She specifically stated that certain high-ranking officials connected with Vice President AL GORE see this issue in terms of politics, not policy.

In addition, the former head of the Office of Civilian Radioactive Waste Management under the Clinton administration, Daniel Dreyfus, believes the DOE must move to meet the January 31, 1998, deadline.

Key labor unions have even joined the fight to restore the DOE's promises.

J.J. Barry, president of the International Brotherhood of Electrical Workers, recently wrote me, saying

I am calling on you and your colleagues to put partisan politics aside for the good of our nation and America's workers and their families. We must address this problem now or else face serious economic and environmental consequences later. Please support passage of S. 104.

I am also pleased that we have received the support of the Building and Construction Trades Union in this effort.

Mr. President, I ask unanimous consent that these letters of labor support be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.  
(See exhibit 1.)

Mr. GRAMS. Despite this widespread, bipartisan support for our efforts to resolve the storage problem, the White House, under the dictates of Vice President AL GORE, still has not offered an alternative to either our bipartisan legislation, which they oppose, or the failed status quo.

The American people deserve leadership from the Clinton-Gore administration, not just the consequences of Presidential aspirations.

If such leadership will not come from the Clinton-Gore administration, then it will come from Congress. Senate Energy and Natural Resources Committee Chairman FRANK MURKOWSKI, Senator LARRY CRAIG and I crafted a bipartisan proposal, S. 104, identical to legislation supported last year by 63 Senators.

We have put this proposal forward as a good faith effort to help resolve this situation for the sake of protecting our environment and the legitimate interests of our ratepayers and taxpayers.

As I've stated, Congress has an obligation to protect the American public

from the estimated \$40 to \$80 billion they face in liability expenses.

Our bill will reform our current civilian nuclear waste program to avoid the squandering of billions of dollars of ratepayers' and taxpayers' money. It will make our environment safer, eliminate the current need for on-site storage at our Nation's nuclear plants, keep plants from shutting down prematurely due to lack of storage space, and keep energy prices stable.

Our legislation also assures that transportation of nuclear waste will continue to be conducted in a safe manner. In fact, there have already been 2,400 shipments of high-level nuclear waste in our Nation, including numerous shipments of naval spent fuel. The safety record of these shipments speaks for itself.

There are many other aspects of this bill which will help resolve the crisis facing the American public. Today, we on the Senate Energy and Natural Resources Committee will take a giant step forward in moving that bill closer to Senate passage.

I applaud my distinguished colleague from Alaska, Chairman MURKOWSKI, for his efforts in moving ahead with this much-needed, historic legislation.

Keeping in mind the Clinton-Gore administration's stated opposition to our legislation, I took the opportunity to ask Secretary-designate Peña for any specific, constructive alternatives he would propose to resolve this issue and help the Federal Government meet its legal obligations.

Mr. Peña's failure to offer specific responses during an Energy and Natural Resources Committee hearing prompted me to send a letter to him asking for a detailed response outlining the specific steps he would urge to meet the January 31, 1998, deadline.

After exchanging a series of letters with Mr. Peña, I have become completely unsatisfied with the lack of specificity in his responses to my questions. While I appreciate Mr. Peña's stated willingness to work with us toward an eventual resolution of this issue and his belief that this is a federal problem worthy of a Federal solution, I believe the American people deserve more.

They deserve specific answers from an administration that has buried its head in the sand and an independent leader at the helm of the DOE who will affect a change in policy.

I have concluded that at this point in time, no one recommended by the Clinton-Gore administration to head the DOE will be allowed to lead.

For the benefit of my colleagues, I would like to read a portion of Mr. Peña's letter dated March 6 that best illustrates my point.

Mr. Peña writes:

I cannot, however, outline for you specific steps for meeting the January 31, 1998 date. The Department of Energy has indicated to the court and in responses to the Congress that there is no set of actions or activities that could be taken under the Nuclear Waste

Policy Act to enable the Department to begin receiving spent fuel at an interim storage facility or a repository on that date.

Frankly, Mr. President, as an elected representative of the ratepayers who have had over \$6 billion thrown away by a department without a single answer to their problems and as an elected representative of the taxpayers who will ultimately assume tens of billions of dollars in liability if progress is not made, I find that answer insufficient and devoid of the leadership we so desperately need at the DOE.

I believe that Mr. Peña is a decent and honorable man, but I also believe that he has not provided the needed answers or displayed the leadership necessary to help resolve this pressing national issue.

Even though I shall do my best in working with him in the future, I cannot, in good conscience, today vote to confirm Mr. Peña to be our next Secretary of Energy.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS

Washington, DC, March 7, 1997.

Hon. ROD GRAMS,  
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMS: I am writing on behalf of the 750,000 members of the International Brotherhood of Electrical Workers (IBEW), to ask you to support S. 104, the Nuclear Waste Policy Act of 1997. Nuclear energy cleanly produces 20 percent of our nation's electricity, reduces our reliance on foreign energy sources, and provides quality jobs for thousands of Americans, including 15,000 of our members at 46 commercial nuclear plants.

The IBEW is concerned that the government's program to manage used nuclear fuel at these plants is woefully out of touch with reality. I am sure that you are aware of the U.S. Court of Appeals' ruling last July in favor of a lawsuit by states and utilities, which stated in clear and unambiguous terms that the federal government must keep its contractual obligation to begin removing used fuel by 1998.

The Department of Energy (DOE), however, says it will not begin accepting used fuel for storage before 2010 at the earliest. By that date, 80 nuclear stations will have run out of existing storage space. This could result in premature plant closings, loss of jobs, and other devastating economic consequences. By providing for central storage by the turn of the century, S. 104 gives the DOE a framework for meeting its legal obligation.

The Congress has been debating the storage issues for years without reaching a conclusion. It is time for a decision. Yucca Mountain is the best possible choice that is available. Unless Congress acts now to select Yucca Mountain, the wastes will continue to be stored near communities around the country, with all of the dire ramifications that such a decision can pose.

I am calling on you and your colleagues to put partisan politics aside for the good of our nation and America's workers and their families. We must address this problem now or else face serious economic and environmental consequences later. Please support passage of S. 104.

Sincerely,

J.J. BARRY,  
International President.

AMERICAN FEDERATION OF LABOR,  
BUILDING AND CONSTRUCTION  
TRADES DEPARTMENT,

Washington, DC, February 10, 1997.

DEAR SENATOR: I write to urge you to vote for S. 104, the Nuclear Waste Policy Act of 1997. It will be considered by your Committee this week. Unless the Congress votes to approve this measure now, the terrible nuclear waste problem that confronts communities across America will soon be intolerable. Every town in the United States is vulnerable to the possibility of sudden and uncontrollable disaster. This issue must be given priority by the members of the Committee.

In testimony last week, the Committee heard Undersecretary of Energy, Thomas P. Grumbly, reveal the Department has more than 100 million gallons of high-level radioactive waste residing at facilities in the States of Washington, Idaho and South Carolina. And, additional and significant nuclear waste is being stored in varying degrees of safety by commercial power companies around the nation.

The Congress has been debating the storage issue for years without reaching a conclusion. It is time for a decision. Yucca Mountain is the best possible choice that is available. Unless the Committee acts now to select Yucca Mountain, the wastes will continue to be stored up in communities around the country, with all of the dire ramifications that such a decision can pose.

The Building and Construction Trades Department, AFL-CIO, the 15 national and international unions it represents, urge you to let our safe and well-trained members begin the hard work that needs to be done to make Yucca Mountain the most secure storage area for nuclear fuel that is available on the face of the earth. If the Committee allows this opportunity to pass, it is estimated that within the next decade, some 55 sites in 30 states will be filled with spent nuclear fuel totaling some 11,000 metric tons of uranium.

Chairman Murkowski expressed concern during the hearing with the thought of letting spent fuel accumulate at reactor sites. That concern is justified, and, possibly is understated. Despite the reluctance of the Administration to take action on this controversial issue, it is clear that the time for debate is long past, and a courageous decision by the Congress is necessary if the nation is to avert a serious environmental disaster of its own making.

Please vote S. 104 out of committee so that the full Senate can debate this critical issue as soon as possible.

With kind personal regards, I remain

Sincerely,

ROBERT A. GEORGINE,  
President.

Mr. GRAMS. I thank the Chair.

I yield my remaining time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, let me wish the occupant of the chair, my good friend from Utah, a good morning. I extend my good wishes.

Mr. President, I will proceed in accordance with the anticipated vote this afternoon on the Peña nomination, and I believe both the chairman of the Energy Committee, myself, and Senator BUMPERS, the ranking member, have 10 minutes equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I heard the comments expressed by my good friend, the Senator from Minnesota, Senator GRAMS, relative to his concern and the concern of his State over the disposition of high-level nuclear waste that is in some 80 locations in 41 States throughout the country, and the inability of the current administration to address its responsibility and hence the responsibility of Congress to meet the contractual commitments made some years ago to take that nuclear waste next year, in 1998.

The reality is that the ratepayers in this country have paid over that period of time some \$12 billion which has gone into the general fund. And, as consequence, we are facing a reality that next year we are not going to be able to meet the obligation of taking that waste. So we can anticipate an opportunity for full employment for the lawyers that are associated with this issue because there is going to be a giant liability that is coming to the American taxpayer. It is estimated to be somewhere in the area of \$40 billion to \$80 billion. The current estimate is about \$59 billion. But usually it goes up from there. This is the liability, or at least a portion of it, which the Federal Government will be subjected to as a consequence of its inability to perform on its contractual commitment. I do not take that lightly. As a consequence, as we address on the floor later on today the nomination of the Secretary of Energy, Federico Peña, I think this is a significant question.

I rise today in support of that nomination. I also rise to advise my colleagues that the delay in considering the nomination has not been about the nominee's qualifications. The nominee is qualified. The committee has held hearings on the nomination. We have investigated matters brought to our attention. We found him to be qualified and reported the nomination favorably on a 19-to-0 vote with one Member voting "present." But there has been an issue, and that issue has been whether the new Secretary is going to have the ability, the flexibility, and the authority to work with Congress to solve the looming nuclear waste storage problem. As I indicated earlier, this waste is stacking up in our towns and in our communities near our homes and schools at 80 locations in 41 States.

Some have said, "How important is nuclear energy?" Well, nuclear energy is contributing about 22 percent of the total power generated in the United States today. People look at power. They take it for granted. They expect it to work. It is always there. It is almost an entitlement. But it has to come from somewhere. It has to come from investment and from transmissions. It has to come from some kind of energy source, and nuclear is an important contributor. Nearly a quarter of the energy produced in the United States. But the waste, as a con-

sequence of these nuclear power plants, has been stacking up. A Federal court has said that the Government must take that waste by 1998.

As I have said before, Americans put \$12 billion into the nuclear waste fund. What do we have to show for it? Nothing. The problem that is unique about this is that nobody wants it. Absolutely no State wants to have this waste. You can throw it up in the air. It has to come down somewhere. It will not stay up there. That is the basic problem. The States in question are running out of space. These are the States that have reactors, and the storage that they have is not permanent storage. It wasn't designed for long-term storage. It was designed for short-term storage. That space is filling up. As a consequence, they may have to limit the construction of new storage capacities. States might not license for new storage capacity.

Mr. President, I ask for another 4 minutes under the time remaining on the 30 minutes that was given to the Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

The reality is that the final repository won't be ready until the year 2015. That is where we are; the permanent repository. We need that. But it will not be ready.

We have a 50-50 chance of taking that waste. This poses an environmental and public safety challenge. I have indicated the risk to the taxpayers—currently \$59 billion. Some electricity production may be shut down.

Mr. President, we simply need the action now. However, we had a problem when the administration, in a communication by the Vice President, told a congressional leadership group this was not a matter that was up for consideration at that meeting. He inferred that we could leave the waste where it was until Yucca Mountain was built.

After I heard about that statement, I postponed consideration of S. 104 and the vote on Mr. Peña so we could begin a process of attempting to work with the administration to get this back on track. In a meeting with the White House Chief of Staff, Erskine Bowles, I asked him to empower the new Energy Secretary to work with us. I said the Senate cannot accept the Vice President's "leave it there" policy. I asked Mr. Bowles to send down a nominee who had flexibility. I have had several conversations with Mr. Peña, Mr. Bowles, and the White House, and judging from those conversations and a recent letter from Mr. Bowles, it seems that the administration has now decided to choose dialog over the Vice President's stonewalling, which is the only way I can put it. I am glad to see that the new Energy Secretary will now have a portfolio to work with the Congress.

I ask unanimous consent that the letter from Mr. Bowles to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
CHIEF OF STAFF TO THE PRESIDENT,  
February 27, 1997.

Hon. FRANK MURKOWSKI,  
Chairman, Senate Committee on Energy and  
Natural Resources, U.S. Senate.

DEAR SENATOR MURKOWSKI: The Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner, consistent with sound science and the protection of public health, safety, and the environment. The Federal government's long-standing commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

The Administration believes that a decision on the siting of an interim storage facility should be based on objective, science-based criteria and should be informed by the viability assessment of Yucca Mountain, expected in 1998. Therefore, as the President has stated, he would veto any legislation that would designate an interim storage facility at a specific site before the viability determination of a permanent geological repository at Yucca Mountain has been determined.

Following confirmation, Secretary Pena has the portfolio in the Administration to work cooperatively with the Committee and others in Congress on nuclear waste disposal issues within the confines of the President's policy as stated above. Secretary Pena will also be meeting with representatives of the nuclear industry and other stakeholders to discuss DOE's response to a recent court decision on the Department's contractual obligations regarding nuclear waste.

Sincerely,

ERSKINE B. BOWLES.

Mr. MURKOWSKI. In light of that, I am prepared to urge my colleagues to vote favorably on Mr. Peña's nomination this morning, and I look forward to working with him and members of my committee on the nuclear waste issue as well as other issues facing the Department of Energy.

Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I strongly support the President's nomination of Federico Peña as Secretary of Energy. He comes before the Senate today with 4 years of experience as Secretary of Transportation. This experience will stand him in good stead in his new position since the Department of Transportation has a number of features that are in common with the Department of Energy.

Both agencies were formed by fusing organizational elements taken from various other departments and agencies.

Both agencies currently have responsibility for a wide range of divergent issues and programs, and in recent years both agencies have had to square the desires of their traditional core constituencies with new environmental considerations and sensitivities.

Only two of Secretary Peña's predecessors, James Schlesinger and James Watkins, were able to come before the

Senate at the time of their nomination with comparable credentials as managers of large and complex Federal organizations. The Department of Transportation's budget is more than \$30 billion, nearly twice the budget of the Department of Energy. It employs nearly 100,000 Federal employees compared to the 20,000 employed at the Department of Energy.

Secretary-designate Peña has faced some important challenges as Secretary of Transportation. He will face even more important challenges as Secretary of Energy.

As the first order of business, he will need to develop a close working relationship with the Department of Defense. Cooperation with the Department of Defense is essential to the success of the Department of Energy in carrying out its national security missions. His track record at the Department of Transportation is very encouraging in this respect. Secretary Peña went out of his way while at the Department of Transportation to establish constructive partnerships with the Department of Defense on issues of mutual concern, such as shipbuilding technology. He also worked closely and successfully with DOD on commercialization of global positioning satellite systems.

A second major challenge for the new Secretary is to preserve and enhance the research and development capabilities of the Department. Our nominee's track record at the Department of Transportation is also impressive in this area. Under Secretary Peña's leadership, the Department of Transportation posted a 60-percent increase in research and development spending, with substantial growth in nearly every part of the Department. Few Federal agencies over the last 4 years can make the same claim.

Secretary Peña also reorganized and improved the coordination of the Department of Transportation research and development programs, establishing joint program offices cutting across internal departmental boundaries. I am looking forward to Secretary Peña's strong leadership in this area in the future.

A final challenge facing Secretary-designate Peña will be to carry out the Department's missions in an environmentally responsible manner. The Department of Energy lost public trust and credibility in some previous years by pursuing its programs without sufficient regard to human and environmental consequences and to the need for public participation in decision-making. Recovering that public trust has been a slow and difficult process. It is essential to maintain momentum in this direction if the Department is to regain that public trust. Secretary Peña has a track record here that augers well.

At the same time that he accelerated progress at the Department of Transportation on the construction of new highways and transportation projects,

he also increased the speed of the Department of Transportation's response to natural disasters and he brought new emphasis to environmental considerations in transportation management planning.

Mr. President, the Senate's action on this nomination is long overdue. It should have occurred a month ago. The committee's delay in bringing the nomination to the floor, as the chairman of the committee has said, had nothing to do with Secretary Peña's integrity or qualifications for the job. The delay resulted from Senators trying to hold his nomination hostage to attempt to persuade the President to change his position on nuclear waste legislation.

The President has stated serious and well-founded concerns about the nuclear waste bill which is being marked up in the Energy Committee today and the effect that bill would have on the long-term solution to the nuclear waste problem. I share many of those concerns, as do other Senators. To his credit, the President has not been bullied into changing his mind on the substance of that bill, but he has agreed that Secretary Peña, once confirmed, can work with those of us in Congress to try to find a solution to this very difficult and complex problem.

Ironically, we are going forward today in the Energy Committee to mark up the nuclear waste bill. This is at a time, of course, before Secretary Peña will be sworn into office and before he will have had a chance to work with us to resolve some of the differences which have arisen with regard to this legislation.

I believe Secretary Peña will be a great Secretary of Energy. I hope we will confirm him today. I am looking forward to working with him on all the important issues—national security, energy policy, environmental protection and technological competitiveness, and I urge my colleagues to support his nomination.

Mr. DOMENICI. Mr. President, Mr. Peña has an impressive set of challenges ahead of him. From our meetings as well as his committee hearing, I'm confident that he understands the responsibilities of this new assignment and that he is willing to make key changes in the Department to enable future success.

Mr. Peña listed the key priorities for the Department, including the need to ensure a safe and reliable nuclear weapons stockpile while reducing the global nuclear danger. He spoke to the importance of cleanup of former nuclear weapons sites and to finding a timely path for disposing of nuclear waste. He emphasized the importance of using and leveraging science and technology throughout the Department. Those are appropriate priorities.

Responsibility for the Nation's nuclear weapons and nuclear weapons technologies was rightly prominent on

his list. Perhaps no other challenge requires as much of his personal attention. The safety and security of the Nation's nuclear arsenal must be assured. The Nation will place this responsibility squarely on his shoulders.

We talked about the importance of avoiding over dependence on his staff and about moving forward with some key recommendations of the Galvin Commission to minimize micro-management by the Department.

He assured me that the nuclear weapons program will receive annual budget support above \$4 billion for the foreseeable future. Below that level I doubt we can maintain the stockpile at the level of confidence, safety, and security that the nuclear weapon responsibilities demand. He assured me that the Department will continue to fully meet the requirements of the Department of Defense, including weapons production capabilities and a reliable tritium supply, and that the Science Based Stockpile Stewardship Program will remain a cornerstone of the nuclear weapons programs.

He assured me that the Department will continue to pursue strong non-proliferation programs with the former Soviet Union, and seek opportunities for the Department to increase its contributions.

He assured me that the Department will move forward with stronger coordination of policy and budgets, and that an independent review of the Department's overdependence on the NEPA process will be forthcoming. He assured me that he will explore rapid movement away from the Department's self-regulation toward outside regulation. And he assured me that the Department will support not only opening of WIPP this November, but also release of funds to construct the WIPP bypass system in New Mexico.

Based on these assurances of appropriate support for the Department's programs of critical national and global importance, as well as those programs that directly impact on the State of New Mexico, I look forward to working with Secretary of Energy Peña on these challenges over the next 4 years.

Mr. THURMOND. Mr. President, I rise to discuss the pending nomination of Mr. Federico Peña, who has been nominated to serve as Secretary of Energy.

The Armed Services Committee held a hearing on Mr. Peña's nomination last February to assess his views and positions on the Department of Energy's programs that fall within the jurisdiction of the Armed Services Committee. We felt this hearing was necessary because Mr. Peña has no background in national security matters and, until very recently had no identifiable position on defense issues that Senators could use to assess his suitability to manage the Department's diverse national security activities.

I, and other members of the Armed Services Committee, continue to have

some concern about the Department's plans to certify the safety and reliability of nuclear warheads, restore tritium production in a timely manner, and maintain the capabilities of the Department's production plants. We also want to see more progress in environmental cleanup at DOE's former defense facilities. These are critical issues that the Secretary of Energy will have to address. I must say that we have not reached complete agreement with Mr. Peña on all of these issues. I intend to work very closely with Mr. Peña to resolve our differences once he is confirmed and I am hopeful that we can make progress on these difficult issues.

Another area of concern that Mr. Peña will be required to address is how to move forward with a permanent repository for the Nation's growing stockpile of spent nuclear fuel. Mr. Peña must avoid playing politics with this issue. He should engage the Congress and work cooperatively to develop a credible solution to this mounting problem. I am hopeful that he will do so.

There is an inconsistency in the Department's actions with regard to spent fuel. The Department has refused to accept U.S. commercial spent nuclear fuel, even after collecting billions of dollars from U.S. rate payers and being ordered to do so by the courts. However, the Department has paid to ship foreign research reactor fuel back to the United States—to the Savannah River Site in South Carolina—where it will likely be stored indefinitely at U.S. taxpayers' expense. Mr. President, this is an outrage. If the Department of Energy can pay to ship spent fuel from First World countries such as Germany and Sweden, why can't they find a way to accept spent nuclear fuel from Minnesota and California. There is no reason President Clinton should not support the legislation pending in the Senate to fix this problem. I strongly encourage the President to allow Mr. Peña to work with the Congress to move forward with a solution to this problem before more taxpayer's dollars are wasted.

Mr. President, despite my remaining concerns, Mr. Peña impresses me as a highly capable manager and I intend to vote favorably on his nomination today. I also want to offer to sit down with Mr. Peña in the coming months to jointly address the issues I have raised. My hope is that he will accept this offer and that we will be able solve these problems for the benefit of the American people.

Mr. GRASSLEY. Mr. President, I rise today to comment on the recent decision of the Justice Department regarding a qui tam lawsuit filed under the false claims act against Energy Secretary-designate Federico Peña. Now, as a Senator I will not comment on the merits of an on-going court case. However, I do believe that it is appropriate to comment on what may be considered an unusual circumstance.

As many of my colleagues may know, when someone files a qui tam lawsuit, the Department of Justice has to make a decision as to whether to intervene in the case or to decline to intervene in the case. Now, this time period is generally from 6 months to 1 year because qui tam lawsuits can be so complex.

With regard to the Peña case, the Justice Department has had the lawsuit for about 1 month and they have already made a decision—to ask the court to dismiss Secretary Peña from the lawsuit. Now, I realize that Secretary Peña is a cabinet nominee and a former Cabinet Member and this case might warrant expedited consideration. But this seems like a rush to judgment. It seems unwise and it raises questions in my mind as to whether the Justice Department's decision in this case is due more to political pressure than to a genuine desire to protect taxpayer dollars.

There are several troubling questions which remain regarding the role of the Department of Transportation, Secretary Peña and other top Transportation Department officials in seeking the reinstatement of a Government contract with the D.M.E. Corp. which the Coast Guard had terminated in March 1994. According to documents supplied to me by the Coast Guard, the D.M.E. Corp. was simply unable to satisfy the contract. Also, according to a memo prepared by the legal adviser to the Coast Guard, a financial audit revealed such serious irregularities that the FBI recommended that D.M.E. be prosecuted for fraud. Did Department of Transportation officials know of the FBI's recommendation when they pressured the Coast Guard to sign a memorandum of understanding committing the Coast Guard to reinstate the D.M.E. contract?

As it happens, Ms. Lus Hopewell, who was Mr. Peña's top aid for the affirmative action programs for the Transportation Department had been the executive director of the Latin American Management Association immediately prior to working for the Transportation Department. Mr. Luis Mola who was the president of D.M.E.—the company whose contract was terminated—sat on the board of directors for the Latin American Management Association. Should Ms. Hopewell have recused herself? Did she disclose to her superiors that she had in effect worked for Mola only months before at her previous job as she was working to get D.M.E. reinstated?

So far, as I understand it, Secretary Peña's defense has been that Coast Guard officials somehow got the mistaken impression that he had met with D.M.E. officials and was involved in reinstating the contract. So, in essence the revealing documents which I have received, which were created contemporaneously and by people with no apparent motive to lie, are mistaken. This explanation is almost identical to an explanation supplied by Secretary

Peña when he was the mayor of Denver. According to a March 26, 1995 article in the Denver Post newspaper, Alvarado Construction Co. received a \$13 million contract to build an administration at the new Denver airport. Alvarado got the bid, however, even though its first bid was disqualified. In order to ensure that Alvarado got the bid, someone voided the first round of bidding for the contract and set up a new round of bidding. Alvarado got the contract on the second round. According to George Doughty, who was the Aviation Director at the time, Peña made the ultimate decision to void the first round of bidding. Secretary Peña said he wasn't involved and he didn't even know that Alvarado had received the bid. Finally, Alvarado was a strong financial backer of Secretary Peña when he was the mayor of Denver as well as a member of the Latin American Management Association. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Mar. 26, 1995]

MR. PEÑA AND A PAIR OF PROBES

(By Gil Spencer)

At the top of the Sunday, March 12, front page was this Denver Post headline: "Probe Zeros in on Peña."

At the top of the Friday front page just six days later, was this Denver Post headline: "Peña Inquiry Dropped."

With Commerce Secretary Ron Brown under investigation, with former Agricultural Secretary Mike Espy under investigation, with Housing Secretary Henry Cisneros under investigation, and with the president himself under investigation for financial dealings while he was governor of Arkansas, it is worth more than a mere mention that Transportation Secretary Federico Peña has been cleared by Attorney General Janet Reno, who is not under investigation.

I last talked to Federico Peña almost exactly three years ago. The topic was his integrity, which, if pushed, he might liken to a cross between the Hope Diamond and the Holy Grail. He thinks very highly of his integrity, and not very highly of anyone who might question it, which he said The Denver Post did.

Keeping Mr. Peña's opinion of his integrity in mind, imagine his reaction when some blabber-mouths in Los Angeles started making noises about Peña's former investment firm, which he founded after he left the mayor's office and which he sold in 1992, still bearing his name. The firm, Pena Investment Advisors, was awarded a rather succulent contract to manage a \$5 million Los Angeles transit pension fund.

Peña Investment Advisors got the transit contract less than three weeks after its namesake became transportation secretary. The timing of the contract award and the investment firm's pedigree intrigued certain parties in Los Angeles and inspired an intriguing comment by the manager of the transit pension fund, one Melvin Marquardt.

Marquardt, a candid soul, was quoted as saying the investment firm would not have been retained if President Clinton hadn't made Peña secretary of transportation.

Enter Janet Reno. Investigation opens. Investigation closes. Federico and his integrity ride on.

That seems about right. There may possibly have been a case. If so, it was hardly

visible to the naked eye. In the other words, the only thing on the table was timing: Peña gets a big job and his old firm gets a big contract. If the firm had been a hopeless loser, Ms. Reno's alarm would have gone off. It would have had to. As it was, the firm seemed qualified and, of course, richer. Life in big-time politics.

Incidentally, in dismissing the contract allegation, Janet Reno also closed down a Justice Department investigation into whether the city—both Peña and Webb—was illegally diverting revenue from Stapleton and using it for non-airport services.

Peña's own department is continuing to investigate that charge, for what it may or may not be worth. And because I know you're absolutely on the edge of your chair, we'll keep you advised.

So Federico Peña is in the clear and has issued a statement that he is pleased but not surprised, adding that his focus has been and remains on serving the president and the American people.

In that spirit, he might turn back the calendar to May 1991. He was mayor Denver and the Alvarado Construction Co. had been awarded a \$13 million contract to build the administration building at the new airport. That contract drew political fire 10 months later, when it was learned that Alvarado's first-round low bid had been defective and thus was disqualified.

Standard procedure would have had the contract awarded to the second low bidder, which in this case appeared fully qualified. Didn't happen. The city rejected all bids, saying it did so in the city's best interest, and Alvarado wound up with the contract.

Alvarado got the contract on the second bounce. Mayor Peña said he didn't even know Alvarado had the contract. Aviation Director George Doughty said it was Peña's ultimate decision. Peña said somebody must have had the impression that he made a decision he didn't make.

There's a fat lie in there somewhere.

Peña said he didn't know Alvarado had a \$13 million city contract? Peña's world was alive with Alvarados—enjoying his support before the city council, contributing to his '87 campaign and his post-mayoral investment firm (Linda Alvarado became a director of that firm in 1993). He didn't know?

It's been three years since Peña damned The Denver Post for questioning his integrity in connection with the Alvarado contract—three years since the issue was buried whole. This isn't the first time I have written about the issue and it isn't the second. There may be a fourth. That contract has a certain fragrance. Then there was the lying. But maybe we're got it all wrong. Care to straighten us out, Mr. Secretary?

Mr. GRASSLEY. Mr. President, I would also like to point out that D.M.E. has received approximately \$30 million in contracts with the Transportation Department. Roughly one-half of those contracts were entered into after the Coast Guard audit detected financial irregularities. Did the questionable practices of D.M.E. at least cause concern within the Transportation Department?

Now these concerns shouldn't necessarily prevent Secretary Peña's nomination from going forward at this time, but there are serious questions about public integrity which require serious answers—not politically expedient ones.

Mr. DASCHLE. Mr. President, I am pleased that we have finally arrived at this point in the process to confirm

Federico Peña as the new Secretary of Energy. In my view, it has already taken too long to bring this nomination to the floor of the Senate and I hope and expect that he will be confirmed overwhelmingly today.

The delays in bringing this nomination to the floor have had nothing to do with Secretary Peña's qualifications for the job. His reputation and integrity are unblemished. Through his long and distinguished career in public service, Secretary Peña has established an outstanding reputation as a creative and able administrator, including his work as mayor of Denver, CO, and more recently as Secretary of Transportation.

The questions that have been raised about his fitness for this job have all been answered through extensive questioning before the Senate Energy and Armed Services Committees. No one can argue credibly that Secretary Peña does not have the experience or leadership to head the Department of Energy.

The delay in bringing this nomination to the floor has resulted from efforts to force the administration into accepting an ill-conceived plan to establish an interim nuclear waste depository in Nevada. This effort to link this confirmation to changes in administration policy has been unfair to the administration and to Secretary Peña, who has pledged to work with Congress to try and find a solution to this complex and daunting problem in a manner that is acceptable to all involved.

The Energy Department needs a Secretary now to address the range of issues and challenges that lie before it, including nuclear waste disposal, electric utility deregulation, hazardous materials cleanup, and the broad questions about our Nation's future energy supply. Federico Peña will be an excellent Secretary of Energy and I fully expect that he will guide that Department through these many challenges in a decisive and competent manner.

I urge all my colleagues to join me in supporting the nomination of Federico Peña to be Secretary of Energy and to work cooperatively with him in the future to address responsibly the challenges that face our great Nation.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction